Congressman Ron Kind

Fair Disaster Tax Act

With devastating flooding in the Midwest, fires in California, and tornados throughout the Great Plains, presidential disaster areas have been declared in 25 states in the first half of 2008. If last year is any indication, this number will unfortunately grow.

Despite the magnitude of these disasters, Congress has only provided tax relief for affected individuals in an ad hoc fashion. Last year, presidential disaster areas were declared in 32 states. Congress, however, only provided one state with disaster tax relief, neglecting deserving individuals and businesses in 31 other states.

To help people rebuild their homes, businesses, and lives, Congressman Kind is introducing the Fair Disaster Tax Relief Act to provide consistent and fair disaster tax relief to any taxpayer that suffers economic loss as a result of a presidential disaster.

What is a Disaster?

Under the Fair Disaster Tax Act, a "disaster" would be any area determined by the President of the United States to warrant assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act after January 1, 2008.

Writing Off Qualified Disaster Expenses

If a taxpayer spends money to clean up after a disaster, the taxpayer may be unable to recover these expenses right away. Instead, the taxpayer may be required to capitalize these expenses and recover these costs over time. The period of time over which these expenses may be recovered can be as long as 39 years.

The Fair Disaster Tax Act would allow disaster victims and businesses to write off and immediately recover demolition, clean up, repair, and environmental remediation expenses.

Reforming Casualty Loss Rules

When property (e.g. a house, a car, or a roof) is destroyed in a disaster, taxpayers are only allowed to claim a loss that exceeds $100 and 10 percent of their adjusted gross income (AGI). For example, if a family with an AGI of $60,000 loses its $10,000 car in a flood, the family would only be allowed to claim a loss that exceeds $100 and $6,000 (i.e. 10 percent of $60,000). Therefore, they would only be able to claim a loss of $3,900.

The Fair Disaster Tax Act waives the restrictive 10 percent rule and raises the $100 floor to $500. With these improvements, the family described above would be able to claim a loss of $9,500 for their destroyed car.

Extending Carry Back for Losses and Qualified Disaster Expenses

When taxpayers carry losses back to prior years, they receive a refund of the taxes that they paid in the earlier year. This prompt refund can help them reinvest in their businesses or make ends meet in the aftermath of a disaster. Under current law, taxpayers can carry losses back two years.

The Fair Disaster Tax Act would allow disaster victims and businesses to carry back losses five years instead of two. This will increase the pool of income taxes that may be offset by the disaster losses and, therefore, can increase the size of a disaster victim's refund.

Providing Housing Assistance for Disaster Victims

Under current law, states are allowed to issue tax exempt bonds to finance low-interest loans to first-time home buyers and to build low income rental housing.

The Fair Disaster Act would allow States to use these tax exempt bonds to also finance low-interest loans to taxpayers whose principal residence has been damaged by a disaster. These loans can be used to make repairs or reconstruction up to $150,000.